



Billing Code: 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130312235-3235-01]

RIN 0648-BD04

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;  
Snapper-Grouper Fishery Off the Southern Atlantic States;  
Regulatory Amendment 18

AGENCY: National Marine Fisheries Service (NMFS), National  
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Regulatory  
Amendment 18 (Regulatory Amendment 18) to the Fishery Management  
Plan for the Snapper-Grouper Fishery of the South Atlantic  
Region (FMP), as prepared and submitted by the South Atlantic  
Fishery Management Council (Council). If implemented, this rule  
would update the annual catch limits (ACLs) for vermilion  
snapper and red porgy, modify the vermilion snapper commercial  
trip limit, and remove the recreational 5-month seasonal closure  
for vermilion snapper. The purpose of this rule is to help  
achieve optimum yield (OY) for snapper-grouper resources in  
accordance with the requirements of the Magnuson-Stevens Fishery

Conservation and Management Act (Magnuson-Stevens Act).

DATES: Written comments must be received on or before [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on the proposed rule, identified by "NOAA-NMFS-2013-0049" by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0049](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0049), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- **Mail:** Submit written comments to Kate Michie, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in

the required fields if you wish to remain anonymous).

Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of the regulatory amendment, which includes an environmental assessment and an initial regulatory flexibility analysis (IRFA), may be obtained from the Southeast Regional Office Web Site at <http://sero.nmfs.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Kate Michie, telephone: 727-824-5305, or e-mail: [kate.michie@noaa.gov](mailto:kate.michie@noaa.gov).

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

#### Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the OY from federally managed fish stocks. These mandates are intended to ensure that fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. To further this goal, the Magnuson-Stevens Act requires fishery managers to end overfishing of stocks and to minimize bycatch

and bycatch mortality to the extent practicable.

### Vermilion Snapper Stock Status

A Southeast Data, Assessment, and Review (SEDAR) stock assessment update for South Atlantic vermilion snapper was completed in October 2012 (SEDAR 17 update). SEDAR is organized around three workshops. First is the data workshop, during which fisheries, monitoring, and life history data are reviewed and compiled. Second is the assessment workshop, where assessment models are developed and population parameters are estimated using the information provided from the data workshop. Third is the review workshop, where independent experts review the input data, assessment methods, and assessment products.

The SEDAR 17 update indicates vermilion snapper is not undergoing overfishing and is not overfished. Additionally, the SEDAR 17 update indicates the vermilion snapper biomass exceeds the target equilibrium biomass. This means that the acceptable biological catch (ABC) level and the ACL may be increased to allow for harvest of that excess biomass without jeopardizing the sustainability of the stock. Prior to the SEDAR 17 update, the last benchmark assessment for South Atlantic vermilion snapper was SEDAR 17 (2008), which indicated the stock was not overfished but was subject to overfishing as of 2007. SEDAR 17 included data through 2007 which was then updated in 2012 to

include harvest information collected through 2011 (SEDAR 17 update).

The Comprehensive ACL Amendment (77 FR 15916, March 16, 2012) established an ABC control rule for assessed snapper-grouper species. In accordance with Magnuson-Stevens Act National Standard 1 guidelines, the ABC control rule takes into account scientific and data uncertainty that may exist for certain species managed within the snapper-grouper fishery management unit (FMU). The Comprehensive ACL Amendment established an ABC for vermilion snapper of 1,109,000 lb (503,034 kg), round weight. Using the ABC control rule and the results of the SEDAR 17 update, the Council's Scientific and Statistical Committee (SSC) recommended increasing the ABC for vermilion snapper to 1,372,000 lb (622,329 kg), round weight, for 2013; then decreasing the ABC to 1,312,000 lb (595,113 kg), round weight, for 2014; 1,289,000 lb (584,681 kg), round weight, for 2015; and 1,269,000 lb (575,609 kg), round weight, for 2016 and subsequent years. The ABC is gradually decreased over 3 years to allow for the harvest of excess biomass and is then held at a constant level when the population size reaches the equilibrium target level. The Council accepted the SSC's recommendation and, as discussed below, proposes to update the ACLs based on the new ABCs.

## Red Porgy Stock Status

A SEDAR stock assessment update was completed for red porgy in October 2012 (2012 SEDAR 1 update). The objective of the 2012 SEDAR 1 update was to update the 2002 SEDAR 1 benchmark assessment and the 2006 SEDAR 1 update for red porgy.

The 2012 SEDAR 1 update includes additional data obtained since the 2006 SEDAR 1 update, and is based on information collected through 2011. The 2012 SEDAR 1 update indicates the red porgy stock is not undergoing overfishing but is still overfished; however, the 2012 SEDAR 1 update also indicates the stock is no longer rebuilding. All rebuilding projections performed in the 2012 SEDAR 1 update indicate that red porgy will not be rebuilt by the end of its rebuilding timeframe (2018). Therefore, the Council has requested a new benchmark assessment for the stock to be completed in 2014. After the new benchmark assessment is conducted, the Council may reconsider the rebuilding plan and modifications to management measures as necessary. However, until the new benchmark assessment is completed, Regulatory Amendment 18 would update the ABC, ACLs, annual catch targets (ACTs), maximum sustainable yield (MSY), and OY for red porgy based on the outcome of the 2012 SEDAR 1 update.

The National Standard 1 guidelines state that, for

overfished stocks and stock complexes, a rebuilding ABC must be set to reflect the annual catch that is consistent with the schedule of fishing mortality rates in the rebuilding plan. Based on this guidance, the outcome of the 2012 SEDAR 1 update, and the ABC control rule established in the Comprehensive ACL Amendment, the SSC recommended a new ABC for red porgy that is lower than the current ABC of 395,304 lb (179,307 kg), round weight (landed catch). The ABC for red porgy would decrease to 306,000 lb (138,799 kg), round weight, for 2013; then increase to 309,000 lb (140,160 kg), round weight for 2014; and increase to 328,000 lb (148,778 kg), round weight for 2015. These ABC values are based on the yield at 75 percent of  $F_{MSY}$ . The Council accepted the SSC's recommendation and, as discussed below, proposes to update the ACLs based on the new ABCs.

#### Management Measures Contained in this Proposed Rule

This proposed rule would revise the commercial and recreational ACLs for vermilion snapper and red porgy, revise the vermilion snapper commercial trip limit, and remove the recreational closed season for vermilion snapper.

#### Vermilion Snapper ACLs

This proposed rule would increase the vermilion snapper ACLs based on the revised ABC values. Amendment 16 to the FMP (Amendment 16) established sector allocations for vermilion

snapper of 68 percent for the commercial sector and 32 percent for the recreational sector (74 FR 30964, June 29, 2009).

Additionally, Amendment 16 established two commercial fishing seasons for vermilion snapper. The first season is January through June, and the second is July through December.

Using on the SSC's ABC recommendation, the ACL formula established in the Comprehensive ACL Amendment where  $ABC = ACL = OY$ , and the allocation formula established through Amendment 16, the Council is proposing revised commercial and recreational ACLs for vermilion snapper. The commercial ACLs in round weight would be 932,960 lb (423,200 kg) in 2013; 892,160 lb (404,700 kg) in 2014; 876,520 lb (397,600 kg) in 2015; and 862,920 lb (391,400 kg) in 2016 and subsequent fishing years. The commercial ACLs would be further divided equally between the first and second commercial fishing seasons. The January through June and the July through December commercial ACLs would be 466,480 lb (211,592 kg), round weight (or 420,252 lb (190,623 kg), gutted weight) in 2013; 446,080 lb (202,338 kg), round weight (or 401,874 lb (182,287 kg), gutted weight) in 2014; 438,260 lb (198,791 kg), round weight (or 394,829 lb (179,091 kg), gutted weight) in 2015; and 431,460 lb (195,707 kg), round weight (or 388,703 lb (176,313 kg), gutted weight) in 2016 and subsequent fishing years.



The recreational ACLs, in round weight, would be 439,040 lb (199,145 kg) in 2013; 419,840 lb (190,436 kg) in 2014; 412,480 lb (187,098 kg) in 2015; and 406,080 lb (184,195 kg) in 2016 and subsequent fishing years. Any unused portion of the commercial ACL from the first part of the fishing year will be added to the commercial ACL for the second part of the fishing year.

#### Vermilion Snapper Commercial Trip Limit

Increasing the vermilion snapper ACLs would allow for increased harvest and increase the probability the commercial split seasons would be extended. However, even with a larger commercial ACL, in-season commercial closures are still expected. Therefore, this proposed rule would reduce the commercial trip limit for vermilion snapper from 1,500 lb (680 kg), gutted weight, to 1,000 lb (454 kg), gutted weight (or 1,100 lb (503 kg), round weight). This rule proposes to reduce the commercial trip limit to 500 lb (227 kg), gutted weight (or 555 lb (252 kg), round weight) after 75 percent of the commercial ACL is reached or projected to be reached,. Reducing the commercial trip limit and implementing a trip limit step down should help control the rate of commercial harvest and reduce the probability that either split season commercial ACL is exceeded.

#### Vermilion Snapper Recreational Seasonal Closure

This rule would remove the 5-month November through March recreational seasonal closure for vermilion snapper that was established in Amendment 16. This seasonal closure was implemented to address overfishing of the species (74 FR 30964, June 29, 2009). However, the SEDAR 17 update indicated that vermilion snapper is not overfished and is no longer undergoing overfishing. Further, an analysis conducted by NMFS indicates the recreational sector would likely harvest between 64 percent and 75 percent of the 2013 recreational ACL. Although the ACL would decrease slightly each year for the next several years, it is unlikely that the recreational vermilion snapper ACL would be met or exceeded in any given year in the near future. If the ACL is exceeded, Amendment 17B to the FMP implemented recreational AMs for vermilion snapper that would mitigate any ACL overage by reducing the recreational ACL for the following fishing year (75 FR 82280, December 30, 2010). Thus, no adverse biological impacts to the vermilion snapper resource are anticipated as a result of removing the seasonal closure.

In addition, in early 2013, the Southeast Fisheries Science Center (SEFSC) implemented a new electronic reporting system for headboats operating in the South Atlantic and Gulf of Mexico. The Gulf of Mexico Fishery Management Council and South Atlantic Council are currently developing amendments that would require

federally permitted headboats to report all landings electronically at an increased frequency to the SEFSC. The SEFSC is also developing a similar program for charterboats. These improvements to the recreational harvest monitoring program are expected to increase the accuracy and timeliness of landings information, and help reduce the likelihood of recreational ACL overages.

#### Red Porgy ACLs

This proposed rule would reduce the commercial and recreational ACLs for red porgy. Currently, the red porgy stock ACL is equal to the ABC and is divided equally between the commercial and recreational sectors according to the formula established in the Comprehensive ACL Amendment. Based on the proposed stock ACL of 306,000 lb (138,799 kg), round weight, the commercial and recreational ACLs for red porgy, would be 153,000 lb (69,400 kg), round weight (or 147,115 lb (66,730 kg), gutted weight) in 2013; 154,500 lb (70,080 kg), round weight (or 148,558 lb (67,385 kg), gutted weight) in 2014; and 164,000 lb (74,389 kg), round weight, (or 157,692 lb (71,528 kg), gutted weight) in 2015 and subsequent fishing years.

Additional Management Measures Contained in Regulatory Amendment

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Regulatory Amendment 18 also includes several actions that

are not contained in this proposed rule. Based on the new ABCs, Regulatory Amendment 18 specifies a new maximum sustainable yield (MSY) and OY for vermilion snapper. Using the SEDAR 17 update results, the values for MSY and OY would be updated to incorporate the most recent harvest information for the stock. Regulatory Amendment 18 would also revise the OY to equal the ABC based on the SEDAR 17 update.

Additionally, Regulatory Amendment 18 would modify the current MSY and OY values for red porgy according to the new ABCs. The OY for red porgy would be equal to the ABC and the ACL as specified in the ACL formula established in the Comprehensive ACL Amendment. Regulatory Amendment 18 would also update the recreational ACT for red porgy based on the revised ABC using the ACT control rule established in the Comprehensive ACL Amendment. However, the recreational ACT is not included in the regulatory text, because it is a performance measure and not an actual limit on harvest.

The Council has requested that a new benchmark stock assessment for red porgy be conducted in 2014. Based on the outcome of the new benchmark assessment, the Council may decide to revise the rebuilding strategy and implement new management measures for the red porgy stock.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this proposed rule is consistent with Regulatory Amendment 18, the FMP, Magnuson-Stevens Act and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an IRFA for this rule, as required by section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603. The IRFA describes the economic impact that this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the objectives of and legal basis for this action are contained at the beginning of this section in the preamble and in the SUMMARY section of the preamble. A copy of the full analysis is available from the NMFS (see ADDRESSES). A summary of the IRFA follows.

The Magnuson-Stevens Act provides the statutory basis for this rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule.

NMFS expects the proposed rule to directly affect commercial fishermen and for-hire vessel operators in the South

Atlantic snapper-grouper fishery. The Small Business Administration established small entity size criteria for all major industry sectors in the U.S., including fish harvesters. A business involved in fish harvesting is classified as a small business if independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of \$4.0 million (NAICS code 114111, finfish fishing) for all of its affiliated operations worldwide. For for-hire vessels, all qualifiers apply except that the annual receipts threshold is \$7.0 million (NAICS code 713990, recreational industries).

From 2007-2011, an annual average of 249 vessels with valid Federal permits to operate in the commercial snapper-grouper fishery landed at least 1 lb (0.4 kg) of vermilion snapper. These vessels generated dockside revenues of approximately \$7.5 million (2011 dollars) from all South Atlantic species caught in the same trips as vermilion snapper, of which \$3.1 million (2011 dollars) were from vermilion snapper. Each vessel, therefore, generated an average of approximately \$30,000 in gross revenues, of which \$12,000 were from vermilion snapper. For the same period, an annual average of 190 vessels with valid Federal permits to operate in the commercial snapper-grouper fishery landed at least 1 lb (0.4 kg) of red porgy. These vessels

generated dockside revenues of approximately \$6.2 million (2011 dollars) from all species caught in the same trips as red porgy, of which \$226,000 (2011 dollars) were from red porgy. Each vessel, therefore, generated an average of approximately \$32,000 in gross revenues, of which \$1,000 were from red porgy.

Commercial vessels that operate in the vermilion snapper or red porgy components of the snapper-grouper fishery may also operate in other fisheries, the revenues of which are not reflected in these totals. Based on revenue information, all commercial vessels affected by the rule can be considered small entities.

From 2005-2010, an annual average of 1,985 vessels had valid Federal permits to operate in the for-hire component of the recreational sector of the snapper-grouper fishery. As of January 22, 2013, 1,462 vessels held South Atlantic for-hire snapper grouper Federal permits, and about 75 are estimated to have operated as headboats in 2013. The for-hire fleet consists of charter boats, which charge a fee on a vessel basis, and headboats, which charge a fee on an individual angler (head) basis. Average annual revenues (2011 dollars) per vessel for charter boats are estimated to be \$126,032 for Florida vessels, \$53,443 for Georgia vessels, \$100,823 for South Carolina vessels, and \$101,959 for North Carolina vessels. For headboats, the corresponding estimates are \$209,507 for Florida

vessels and \$153,848 for vessels in the other South Atlantic states. Based on these average revenue figures, all for-hire operations that would be affected by the rule can be considered small entities.

NMFS expects the proposed rule will directly affect all federally permitted commercial vessels harvesting vermilion snapper or red porgy and for-hire vessels that operate in the South Atlantic snapper-grouper fishery. All directly affected entities have been determined, for the purpose of this analysis, to be small entities. Therefore, NMFS determined that the proposed action would affect a substantial number of small entities.

Because NMFS determined that all entities expected to be affected by the actions in this proposed rule are small entities, the issue of disproportional effects on small versus large entities does not arise in the present case.

The proposed vermilion snapper commercial and recreational ACLs would be set higher over the period 2013 through 2016, and in subsequent years, relative to the 2012 ACLs. This action would likely provide the commercial sector a longer fishing season that could result in higher industry revenues and possibly profits to commercial vessels. Relative to the 2012 commercial ACL, the proposed commercial ACL increases would



generate additional ex-vessel revenues to commercial vessels. Based on past ex-vessel data applied to the increased ACLs, these additional revenues would be about \$817,974 (2011 dollars) in 2013, and as the commercial ACL decreases to its lowest level in 2016 and subsequent years, the additional revenues would also be reduced to about \$586,000 (2011 dollars).

The possibility of increased profits for commercial vessels from an increase in revenues would have to be balanced with the proposed lower vermilion snapper commercial trip limit. The trip limit, in conjunction with the increased commercial ACLs, is expected to extend the first commercial season by about 3 1/2 weeks beyond the 2012 closure date, and the second season by about 3 weeks beyond the 2012 closure date. Before reaching 75 percent of the commercial ACL, the trip limit would benefit those who presently are harvesting less than 1,000 lb (454 kg), gutted weight, per trip, because it would allow them to continue to harvest that same amount per trip for an extended period and therefore generate more revenues and likely more profits for the entire fishing year. On the other hand, the trip limit would effectively increase the cost to the vessel per harvested fish of those already harvesting more than 1,000 lb (454 kg), gutted weight, per trip, although these fishermen could still take advantage of an extended season. A similar situation would

occur once the trip limit is reduced to 500 lb (227 kg), gutted weight, but in this case the scaled down trip limit would be the reference point. If the extended season could bring in relatively higher ex-vessel prices, those not adversely affected by the commercial trip limit would very likely experience profit increases and those adversely affected by the trip limit would not necessarily experience profit reductions. Given this condition, it would appear that the net effects on vessel profits would be positive. However, many more vessels would be adversely affected once the trip limit of 500 lb (227 kg), gutted weight, takes effect. This limit could result in greater profit reductions to adversely affected vessels. The overall net effects of the commercial ACL increases and commercial trip limit reductions on vessel profits cannot be ascertained.

In principle, the proposed increase in vermilion snapper recreational ACL would benefit the for-hire vessels, but this result is highly dependent on whether the seasonal closure is eliminated. In recent years, the recreational sector has not fully reached its ACL, and this could be due to the November through March closure of the vermilion snapper recreational sector. Eliminating this seasonal closure would very likely increase the trips of for-hire vessels targeting vermilion snapper so that net operating revenues, or profits, of these

vessels would also likely increase. An in-season recreational sector quota closure, however, would constrain any increases in the profits of for-hire vessels, but projections indicate that the recreational ACT are unlikely to be reached during the fishing year, at least in the short-term. It is, therefore, likely that the recreational ACL increases, in conjunction with the elimination of the seasonal closure, would result in profit increases for the for-hire vessels. Assuming that the recreational ACL would not be reached, and that there would not be an in-season quota closure, eliminating the recreational seasonal closure for vermilion snapper would increase the net operating revenues of charter boats by about \$47,000 (2011 dollars) annually, and those of headboats by about \$158,000 (2011 dollars) annually.

The proposed red porgy commercial and recreational ACLs for 2013 through 2015 would be lower than the current ACL so that, in principle, both commercial and for-hire vessels would be negatively affected. Since increasing the commercial ACL in 2009, the red porgy commercial sector has exceeded its ACL only once (in 2011), and in other years red porgy commercial landings were substantially lower than the sector's ACL. Based on a running average of commercial landings as a proxy for future landings, the proposed red porgy commercial ACLs for 2013

through 2015 are unlikely to be exceeded and therefore trigger an in-season closure of the commercial sector. Thus, unless there is a significant increase in commercial landings through a substantial increase in the stock size or fishing effort, the proposed commercial ACLs would likely not reduce the landings, revenues, and profits of commercial vessels. In the event the commercial ACLs are reached but not exceeded, commercial vessels could generate additional revenues from the proposed commercial ACLs. Relative to the landings and revenues in 2012 and assuming the commercial ACLs are reached, additional revenues (2011 dollars) to commercial vessels would be approximately \$259,000 in 2013, \$261,000 in 2014, and \$277,000 in 2015 and thereafter.

Recreational landings of red porgy have remained at very low levels, averaging approximately 110,000 lb (49,941 kg), round weight, annually from 2007 through 2011. In 2012, recreational landings of approximately 137,000 lb (62,199 kg), round weight, were less than 30 percent of the recreational sector's ACL. Therefore, the proposed recreational ACL would most likely have no effects on the profits of for-hire vessels, at least in the short-term. The long-term effects on profits depend on whether for-hire vessel trips targeting red porgy substantially increase. If such an increase in for-hire vessel

trips did occur, for-hire profits would also increase.

The following discussion analyzes the alternatives that were not preferred by the Council, or alternatives for which the Council chose the no action alternative.

Two alternatives, including the preferred alternative, were considered for revising the vermilion snapper commercial and recreational ACLs. The only other alternative is the no action alternative, which would maintain the ACLs at a lower level than the proposed sector ACLs. Selecting the no action alternative would lead to forgone profit increases for commercial and for-hire vessels that would otherwise be realized under the preferred alternative.

Three alternatives, including the preferred alternative, were considered for revising the commercial trip limit for vermilion snapper. The first alternative, the no action alternative, would maintain the trip limit at 1,500 lb (680 kg), gutted weight, which would be higher than that in the preferred alternative. Although, in principle, this alternative would have no effects on commercial vessel profits, there would be a higher probability of an ever-shortening commercial season, thereby adversely affecting the profits of many commercial vessels. The second alternative is a trip limit of 1,000 lb (454 kg), gutted weight, the same as the preferred alternative,

but without the step down to a to 500 lb (227 kg), gutted weight, trip limit when 75 percent of the commercial ACL has been met or is projected to be met. This alternative would result in a shorter first and second commercial fishing seasons than the preferred alternative. As with the preferred alternative, it would increase the cost per landed fish of those already harvesting above the trip limit, although those vessels could increase their overall revenues by taking more fishing trips during the extended commercial season. The net effect on their profits would be positive only if ex-vessel prices substantially improved during the extended season. However, those vessels currently landing below the commercial trip limit would likely experience increased revenues and likely profits due to the extended season. As with the preferred alternative, this alternative's overall net effects on the profits of commercial vessels cannot be ascertained. It is only noted that this alternative would adversely affect fewer vessels than the preferred alternative. Considering, however, that the commercial sector has been reaching its ACL in recent years, this alternative would have a higher probability of allowing overages to occur than the preferred alternative. Overages of the commercial ACL could lead to overfishing of vermilion snapper which would necessitate more restrictive measures that

could, in turn, reduce the future revenues and profits of commercial vessels.

Two alternatives, including the preferred alternative, were considered for modifying the recreational closed season for vermilion snapper. The only other alternative is the no action alternative, which would maintain the November through March closure of the recreational sector for vermilion snapper. This alternative would lead to forgone for-hire vessel profits that would otherwise be realized with the preferred alternative.

Three alternatives, including the preferred alternative, were considered for revising the commercial and recreational ACLs for red porgy. The first alternative, the no action alternative, would retain the current ACL, which would be higher than the ACLs under the preferred alternative. Although this alternative would, in principle, provide for better profitability prospects for both the commercial and for-hire vessels, its effects in the short-term would be equivalent to those of the preferred alternative because, based on historical landings through 2012, the commercial and recreational landings would likely be lower than the proposed commercial and recreational ACLs. The second alternative is similar to the preferred alternative, except that it would set the sector ACLs for 2013 through 2018 and subsequent years until modified. The

effects of this alternative on commercial and for-hire vessels would be identical to those of the preferred alternative for 2013 through 2015. In 2016 through 2018, this alternative would provide for higher sector ACLs and thus, in principle, would provide commercial vessels a better environment for generating higher revenues and profits. Assuming the commercial sector fully reaches its annual ACL in 2016 through 2018, this alternative would allow for additional revenues of about \$127,000 (2011 dollars) over the preferred alternative for the three-year period (2016-2018). However, using a running average of commercial landings through 2012 as a proxy for future landings, the commercial ACLs under this alternative would likely not be reached. Therefore, the effects of this alternative on commercial vessels are virtually identical to those of the preferred alternative for the 3-year period (2016-2018). This alternative and the preferred alternative would most likely have identical effects on for-hire vessels in 2016 through 2018. Recreational landings of red porgy have stayed at very low levels, making it unlikely that the recreational ACLs under this alternative or the preferred alternative would be reached. The Council will receive a new benchmark stock assessment for red porgy in 2014. As described in Regulatory Amendment 18, these assessment results will be considered by the



Council in 2015, and any necessary changes to the ACLs or other and management measures will be developed during 2015 with possible implementation in 2016. Hence the ACLs for 2016 and beyond may be revised based on the best scientific information available at that time.

The Council also considered two alternatives to modify the commercial fishing season for vermilion snapper, from which they selected the no action alternative. The no action alternative would maintain the split of the commercial fishing year, with January through June as the first season and July through December as the second season. This alternative would split the commercial ACL between the two seasons.

The second alternative consists of two sub-alternatives. The first sub-alternative would split the commercial fishing year into January through May as the first season and June through December as the second season. The second sub-alternative would split the commercial fishing year into January through April as the first season and May through December as the second season. In both sub-alternatives, the commercial ACL would be split equally between the two seasons. The Council noted the complexity of this action and decided to move it to Regulatory Amendment 14 to the FMP for consideration with possible additional alternatives. The timing of the opening and

closure of the season for vermilion snapper can impact the seasons for other snapper-grouper species, particularly the shallow-water grouper complex and black sea bass. The Council decided that a different amendment that would jointly consider the fishing season for vermilion snapper and black sea bass was the better approach. As a result of that decision, completion of Regulatory Amendment 18 would not be delayed by the consideration of a broader set of actions within the amendment, thus allowing the realization of more socioeconomic benefits from increased ACLs for vermilion snapper.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: May 2, 2013.

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Alan D. Risenhoover, Director, Office of Sustainable Fisheries,  
performing the functions and duties of the Deputy Assistant Administrator  
for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

§ 622.183 [Amended]

2. In § 622.183, paragraph (b)(4) is removed and reserved.

3. In § 622.190, introductory paragraph (a), and paragraphs (a)(4) and (a)(6) are revised to read as follows:

§ 622.190 Quotas.

\* \* \* \* \*

(a) South Atlantic snapper-grouper, excluding wreckfish.

The quotas apply to persons who are not subject to the bag limits. (See § 622.11 for applicability of the bag limits.) The quotas are in gutted weight, that is eviscerated but otherwise whole, except for the quotas in paragraphs (a)(4), (a)(5), and (a)(6) of this section which are in both gutted weight and round weight.

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(4) Vermilion snapper--(i) For the period January through

June each year.

(A) For the 2013 fishing year--420,252 lb (190,623 kg), gutted weight; 466,480 lb (211,592 kg), round weight.

(B) For the 2014 fishing year--401,874 lb (182,287 kg), gutted weight; 446,080 lb (202,338 kg), round weight.

(C) For the 2015 fishing year--394,829 lb (179,091 kg), gutted weight; 438,260 lb (198,791 kg), round weight.

(D) For the 2016 and subsequent fishing years--388,703 lb (176,313 kg), gutted weight; 431,460 lb (195,707 kg), round weight.

(ii) For the period July through December each year.

(A) For the 2013 fishing year--420,252 lb (190,623 kg), gutted weight; 466,480 lb (211,592 kg), round weight.

(B) For the 2014 fishing year--401,874 lb (182,287 kg), gutted weight; 446,080 lb (202,338 kg), round weight.

(C) For the 2015 fishing year--394,829 lb (179,091 kg), gutted weight; 438,260 lb (198,791 kg), round weight.

(D) For the 2016 and subsequent fishing years--388,703 lb (176,313 kg), gutted weight; 431,460 lb (195,707 kg), round weight.

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(6) Red porgy--(i) For the 2013 fishing year--147,115 lb (66,730 kg), gutted weight; 153,000 lb (69,400 kg), round

weight.

(ii) For the 2014 fishing year--148,558 lb (67,385 kg), gutted weight; 154,500 lb (70,080 kg), round weight.

(iii) For the 2015 and subsequent fishing years--157,692 lb (71,528 kg), gutted weight; 164,000 lb (74,389 kg), round weight.

\* \* \* \* \*

4. In § 622.191, paragraph (a)(6) is revised to read as follows:

§ 622.191 Commercial trip limits.

\* \* \* \* \*

(a) \* \* \*

(6) Vermilion snapper. (i) Until 75 percent of either quota specified in § 622.190(a)(4)(i) or (ii) is reached or projected to be reached, 1,000 lb (454 kg), gutted weight; 1,110 lb (503 kg), round weight.

(ii) After 75 percent of either quota specified in § 622.190(a)(4)(i) or (ii) is reached or projected to be reached, 500 lb (227 kg), gutted weight; 555 lb (252 kg), round weight. The Assistant Administrator, by filing a notification with the Office of the Federal Register, will effect a trip limit change specified in this paragraph, (a)(6)(ii), when the applicable conditions have been reached.

(iii) See § 622.190(c)(1) for the limitations regarding vermilion snapper after either quota is reached.

\* \* \* \* \*

5. In § 622.193, paragraphs (f) and (v) are revised to read as follows:

§ 622.193 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

\* \* \* \* \*

(f) Vermilion snapper--(1) Commercial sector. If commercial landings, as estimated by the SRD, reach or are projected to reach the applicable commercial ACL (commercial quota) specified in § 622.190(a)(4)(i) or (ii), the AA will file a notification with the Office of the Federal Register to close the commercial sector for that portion of the fishing year applicable to the respective quota.

(2) Recreational sector. (i) If recreational landings, as estimated by the SRD, reach or are projected to reach the applicable recreational ACL specified in paragraph (f)(2)(iv) of this section and vermilion snapper are overfished, based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to close the recreational sector for vermilion snapper for the remainder of the fishing year. On and after the effective date

of such notification, the bag and possession limit of vermilion snapper in or from the South Atlantic EEZ is zero. This bag and possession limit also applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

(ii) Without regard to overfished status, if vermilion snapper recreational landings exceed the applicable recreational ACL, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year, to reduce the ACL for that fishing year by the amount of the overage.

(iii) Recreational landings will be evaluated relative to the ACL based on a moving multi-year average of landings, as described in the FMP.

(iv) The recreational ACL for vermilion snapper is 395,532 lb (179,410 kg), gutted weight, 439,040 lb (199,145 kg), round weight, for 2013; 378,234 lb (171,564 kg), gutted weight, 419,840 lb (190,436 kg), round weight, for 2014; 371,604 lb (168,557 kg), gutted weight, 412,480 lb (187,098 kg), round weight, for 2015; and 365,838 lb (165,941 kg), gutted weight, 406,080 lb (184,195 kg), round weight, for 2016 and subsequent

fishing years.

\* \* \* \* \*

(v) Red porgy--(1) Commercial sector. (i) If commercial landings for red porgy, as estimated by the SRD, reach or are projected to reach the applicable commercial ACL (commercial quota) specified in § 622.190(a)(6), the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year.

(ii) If commercial landings exceed the applicable commercial ACL, and red porgy are overfished, based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the fishing year to reduce the ACL for that following year by the amount of the overage in the prior fishing year.

(2) Recreational sector. (i) If recreational landings for red porgy, as estimated by the SRD, exceed the applicable recreational ACL specified in paragraph (v)(2)(ii) of this section then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to



ensure recreational landings do not exceed the recreational ACL in the following fishing year. However, the length of the recreational fishing season will not be reduced during the following fishing year if recreational landings do not exceed the applicable ACL or if the RA determines, using the best scientific information available, that a reduction in the length of the following fishing season is unnecessary.

(ii) The recreational ACL for red porgy is 147,115 lb (66,730 kg), gutted weight, 153,000 lb (69,400 kg), round weight, for 2013; 148,558 lb (67,385 kg), gutted weight, 154,500 lb (70,080 kg), round weight, for 2014; 157,692 lb (71,528 kg), gutted weight, 164,000 lb (74,389 kg), round weight, for 2015 and subsequent fishing years.

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[FR Doc. 2013-10804 Filed 05/07/2013 at 8:45 am;  
Publication Date: 05/08/2013]